

TO: Chairman and Members

DATE: November 8, 2012

SUBJECT: Delegation of Authority to California Department of Justice to Administer Edward Byrne Memorial Justice Assistance Grant (JAG) Sex Offender Registration and Notification Act (SORNA) Penalty Funds

AGENDA ITEM: I

ACTION: X
INFORMATION:

RESOURCE PERSON: Jean L. Scott

Issue:

This agenda item requests Board approval to delegate authority to the California Department of Justice to request the reallocation of funds, which will be withheld from California's FY 2013 Edward Byrne Memorial Justice Assistance Grant (JAG) allocation, and to administer those funds to improve California's sex offender registry program and the state's ability to participate in the national exchange portal to share information about registered sex offenders with other states.

Background:

The Adam Walsh Child Protection and Safety Act was signed into law in July 2006. Title I of the Act, the Sex Offender Registration and Notification Act (SORNA) required states to comply with federal standards regarding how to classify and monitor sex offenders by July 27, 2011. For each Fiscal Year after the deadline, states that are not deemed substantially compliant with the law will incur a 10% reduction of their Edward Byrne Memorial Justice Assistance Grant (JAG) funding.

In July 2011, the U.S. Department of Justice, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) reviewed the information submitted by the California Department of Justice (CDOJ), the state agency responsible for California's sex offender registry, and determined that California has not "substantially implemented" SORNA. Therefore, the state government JAG allocation for FY 2012, administered by the Board of State and Community Corrections, as the State Administrative Agency (SAA), was reduced by 10% or \$797,000. The reasons for the finding of noncompliance are related to California's existing statutes related to sex offender classification, registration and notification. California, along with 34 other states, believes its existing statutes better protect public safety than wholesale enactment of SORNA but is in agreement with some provisions of the federal law to the extent they promote evidence-based sex offender management practices.

On October 26, 2012, the SMART Office sent a letter to Governor Jerry Brown stating that the SMART Office has determined that California has not "substantially implemented" SORNA as of July 1, 2012 and that California's FY 2013 state government JAG allocation will also be reduced by 10%. The state has until November 26, 2012 to request that these funds remain with the state by completing an application for reallocation of the funds. These funds can only be used for purposes consistent with SORNA, to promote effective sex offender management practices, which is the responsibility of the CDOJ. The CDOJ has submitted a proposal to the BSCC explaining how the funds will be used to address goals consistent with SORNA. The proposal includes improving the overall registration process in the state of California and facilitating the electronic sharing of information between the state Sex Offender Registry, other states' registries, and the U.S. Marshal Service.

As the SAA for the state government JAG funding in California, the BSCC can delegate authority to the CDOJ to complete, submit and administer the Request for Reallocation of Byrne/JAG Grant Funds for FY 2013 for purposes consistent with SORNA. The amount of funding will not be known until the federal government determines the FY 2013 JAG allocations.

Recommendation/Action Needed:

Approve the delegation of authority to the California Department of Justice to complete, submit and administer the Request for Reallocation of Byrne/JAG Grant Funds for FY 2013 for purposes consistent with SORNA.

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